

TABLE 80CNSMT.—APPLICABLE AFTER APRIL 30, 1989, AND BEFORE MAY 1, 1999—Continued

Age × (1)	1(×) (2)	Age × (1)	1(×) (2)	Age × (1)	1(×) (2)
8	98396	45	93599	82	37172
9	98370	46	93256	83	34095
10	98347	47	92882	84	31012
11	98328	48	92472	85	27960
12	98309	49	92021	86	24961
13	98285	50	91526	87	22038
14	98248	51	90986	88	19235
15	98196	52	90402	89	16598
16	98129	53	89771	90	14154
17	98047	54	89087	91	11908
18	97953	55	88348	92	9863
19	97851	56	87551	93	8032
20	97741	57	86695	94	6424
21	97623	58	85776	95	5043
22	97499	59	84789	96	3884
23	97370	60	83726	97	2939
24	97240	61	82581	98	2185
25	97110	62	81348	99	1598
26	96982	63	80024	100	1150
27	96856	64	78609	101	815
28	96730	65	77107	102	570
29	96604	66	75520	103	393
30	96477	67	73846	104	267
31	96350	68	72082	105	179
32	96220	69	70218	106	119
33	96088	70	68248	107	78
34	95951	71	66165	108	51
35	95808	72	63972	109	33
36	95655	73	61673	110	0

[T.D. 8540, 59 FR 30151, June 10, 1994, as amended at 59 FR 30152, June 10, 1994; T.D. 8819, 64 FR 23211, 23212, Apr. 30, 1999; 64 FR 33195, June 22, 1999; T.D. 8886, 65 FR 36943, June 12, 2000]

TAXABLE ESTATE

§ 20.2051-1 Definition of taxable estate.

The taxable estate of a decedent who was a citizen or resident (see paragraph (b)(1) of § 20.0-1) of the United States at the time of his death is determined by subtracting the total amount of the deductions authorized by sections 2052 through 2056 from the total amount which must be included in the gross estate under sections 2031 through 2044. These deductions are in general as follows:

(a) An exemption of \$60,000 (section 2052);

(b) Funeral and administration expenses and claims against the estate (including certain taxes and charitable pledges) (section 2053);

(c) Losses from casualty or theft during the administration of the estate (section 2054);

(d) Charitable transfers (section 2055); and

(e) The marital deduction (section 2056).

See section 2106 and the regulations thereunder for the computation of the taxable estate of a decedent who was not a citizen or resident of the United States. See also § 1.642(g)-1 of this chapter concerning the disallowance for income tax purposes of certain deductions allowed for estate tax purposes.

§ 20.2052-1 Exemption.

An exemption of \$60,000 is allowed as a deduction under section 2052 from the gross estate of a decedent who was a citizen or resident of the United States at the time of his death. For the amount of the exemption allowed as a deduction from the gross estate of a decedent who was a nonresident not a citizen of the United States, see paragraph (a)(3) of § 20.2106-1.

§ 20.2053-1 Deductions for expenses, indebtedness, and taxes; in general.

(a) *General rule.* In determining the taxable estate of a decedent who was a

citizen or resident of the United States at the time of his death, there are allowed as deductions under section 2053 (a) and (b) amounts falling within the following two categories (subject to the limitations contained in this section and in §§ 20.2053-2 through 20.2053-9):

(1) *First category.* Amounts which are payable out of property subject to claims and which are allowable by the law of the jurisdiction, whether within or without the United States, under which the estate is being administered for—

- (i) Funeral expenses;
- (ii) Administration expenses;
- (iii) Claims against the estate (including taxes to the extent set forth in § 20.2053-6 and charitable pledges to the extent set forth in § 20.2053-5); and
- (iv) Unpaid mortgages on, or any indebtedness in respect of, property, the value of the decedent's interest in which is included in the value of the gross estate undiminished by the mortgage or indebtedness.

As used in this subparagraph, the phrase “allowable by the law of the jurisdiction” means allowable by the law governing the administration of decedents' estates. The phrase has no reference to amounts allowable as deductions under a law which imposes a State death tax. See further §§ 20.2053-2 through 20.2053-7.

(2) *Second category.* Amounts representing expenses incurred in administering property which is included in the gross estate but which is not subject to claims and which—

- (i) Would be allowed as deductions in the first category if the property being administered were subject to claims; and
- (ii) Were paid before the expiration of the period of limitation for assessment provided in section 6501.

See further § 20.2053-8.

(b) *Provisions applicable to both categories—*(1) *In general.* If the item is not one of those described in paragraph (a) of this section, it is not deductible merely because payment is allowed by the local law. If the amount which may be expended for the particular purpose is limited by the local law no deduction in excess of that limitation is permissible.

(2) *Effect of court decree.* The decision of a local court as to the amount and allowability under local law of a claim or administration expense will ordinarily be accepted if the court passes upon the facts upon which deductibility depends. If the court does not pass upon those facts, its decree will, of course, not be followed. For example, if the question before the court is whether a claim should be allowed, the decree allowing it will ordinarily be accepted as establishing the validity and amount of the claim. However, the decree will not necessarily be accepted even though it purports to decide the facts upon which deductibility depends. It must appear that the court actually passed upon the merits of the claim. This will be presumed in all cases of an active and genuine contest. If the result reached appears to be unreasonable, this is some evidence that there was not such a contest, but it may be rebutted by proof to the contrary. If the decree was rendered by consent, it will be accepted, provided the consent was a bona fide recognition of the validity of the claim (and not a mere cloak for a gift) and was accepted by the court as satisfactory evidence upon the merits. It will be presumed that the consent was of this character, and was so accepted, if given by all parties having an interest adverse to the claimant. The decree will not be accepted if it is at variance with the law of the State; as, for example, an allowance made to an executor in excess of that prescribed by statute. On the other hand, a deduction for the amount of a bona fide indebtedness of the decedent, or of a reasonable expense of administration, will not be denied because no court decree has been entered if the amount would be allowable under local law.

(3) *Estimated amounts.* An item may be entered on the return for deduction though its exact amount is not then known, provided it is ascertainable with reasonable certainty, and will be paid. No deduction may be taken upon the basis of a vague or uncertain estimate. If the amount of a liability was not ascertainable at the time of final audit of the return by the district director and, as a consequence, it was not allowed as a deduction in the audit,

and subsequently the amount of the liability is ascertained, relief may be sought by a petition to the Tax Court or a claim for refund as provided by sections 6213(a) and 6511, respectively.

(c) *Provision applicable to first category only.* Deductions of the first category (described in paragraph (a)(1) of this section) are limited under section 2053(a) to amounts which would be property allowable out of property subject to claims by the law of the jurisdiction under which the decedent's estate is being administered. Further, the total allowable amount of deductions of the first category is limited by section 2053(c)(2) to the sum of—

(1) The value of property included in the decedent's gross estate and subject to claims, plus

(2) Amounts paid, out of property not subject to claims against the decedent's estate, within 9 months (15 months in the case of the estate of a decedent dying before January 1, 1971) after the decedent's death (the period within which the estate tax return must be filed under section 6075), or within any extension of time for filing the return granted under section 6081.

The term "property subject to claims" is defined in section 2053(c)(2) as meaning the property includible in the gross estate which, or the avails of which, under the applicable law, would bear the burden of the payment of these deductions in the final adjustment and settlement of the decedent's estate. However, for the purposes of this definition, the value of property subject to claims is first reduced by the amount of any deduction allowed under section 2054 for any losses from casualty or theft incurred during the settlement of the estate attributable to such property. The application of this paragraph may be illustrated by the following examples:

Example (1). The only item in the gross estate is real property valued at \$250,000 which the decedent and his surviving spouse held as tenants by the entirety. Under the local law this real property is not subject to claims. Funeral expenses of \$1,200 and debts of the decedent in the amount of \$1,500 are allowable under local law. Before the prescribed date for filing the estate tax return, the surviving spouse paid the funeral expenses and \$1,000 of the debts. The remaining \$500 of the debts was paid by her after the prescribed

date for filing the return. The total amount allowable as deductions under section 2053 is limited to \$2,200, the amount paid prior to the prescribed date for filing the return.

Example (2). The only two items in the gross estate were a bank deposit of \$20,000 and insurance in the amount of \$150,000. The insurance was payable to the decedent's surviving spouse and under local law was not subject to claims. Funeral expenses of \$1,000 and debts in the amount of \$29,000 were allowable under local law. A son was executor of the estate and before the prescribed date for filing the estate tax return he paid the funeral expenses of \$9,000 of the debts, using therefor \$5,000 of the bank deposit and \$5,000 supplied by the surviving spouse. After the prescribed date for filing the return, the executor paid the remaining \$20,000 of the debts, using for that purpose the \$15,000 left in the bank account plus an additional \$5,000 supplied by the surviving spouse. The total amount allowable as deductions under section 2053 is limited to \$25,000 (\$20,000 of property subject to claims plus the \$5,000 additional amount which, before the prescribed date for filing the return, was paid out of property not subject to claims).

(d) *Disallowance of double deductions.* See section 642(g) and § 1.642(g)-1 with respect to the disallowance for income tax purposes of certain deductions unless the right to take such deductions for estate tax purposes is waived.

[T.D. 6296, 23 FR 4529, June 24, 1958, as amended by T.D. 7238, 37 FR 28719, Dec. 29, 1972]

§ 20.2053-2 Deduction for funeral expenses.

Such amounts for funeral expenses are allowed as deductions from a decedent's gross estate as (a) are actually expended, (b) would be properly allowable out of property subject to claims under the laws of the local jurisdiction, and (c) satisfy the requirements of paragraph (c) of § 20.2053-1. A reasonable expenditure for a tombstone, monument, or mausoleum, or for a burial lot, either for the decedent or his family, including a reasonable expenditure for its future care, may be deducted under this heading, provided such an expenditure is allowable by the local law. Included in funeral expenses is the cost of transportation of the person bringing the body to the place of burial.